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In re Application of
MATEU

Application No.: 10/534,847

PCT No.: PCT/ES03/00579

Int. Filing Date: 14 November 2003

Priority Date: 19 November 2002

Attorney Docket No.: 229/1/059

For: DISPOSABLE PROTECTOR FOR THE
SEAT RING OR UPPER PART OF A
TOILET

DECISION ON PETITION

UNDER 37 CFR 1.42

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. The combined declaration and declaration filed 13 May 2005 is being treated as a request for status pursuant to 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 14 November 2003, applicant filed the international application, which claimed a priority date of 19 November 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 June 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 19 May 2005.

On 13 May 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee, an English translation of the international application, an Information Disclosure Statement, an Application Data Sheet, a preliminary amendment and a combined declaration and power of attorney executed by Raquel Fernandez Escortell as legal representative to the estate of deceased sole inventor Albert Fernandez Mateu.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

“In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or

declaration, and apply for and obtain a patent."

The declaration filed 13 May 2005 was executed by Raquel Fernandez Escortell as legal representative to the estate of deceased sole inventor Albert Fernandez Mateu. However, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) as the declaration sets forth the residence, post office address and country of citizenship of only one individual. Under 37 CFR 1.497(b) the information must be provided for both the deceased inventor, Albert Fernandez Mateu and the legal representative, Raquel Fernandez Escortell:

If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

In addition, while the declaration identifies Ms. Escortell as the legal representative, it also lists her as the first inventor. A newly filed declaration should list Mr. Mateu as the inventor with his residence, post office address and country of citizenship and then separately list Ms. Escortell and her residence, post office address and country of citizenship.

CONCLUSION

Applicants' petition under 37 CFR 1.42 is **DISMISSED, without prejudice.**

Applicants are hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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